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PATENT & TRADEMARK OFFICE
Docket No. 4554/87215

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT: Stockman
SERIAL NO.: 09/615,683
FILED: 14 July 2000
FOR: Backpack and Chair Apparatus
EXAMINER: Stephen K. Cronin
GROUP: 3727

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REVISED APPEAL BRIEF UNDER 37 C.F.R. §1.192

In response to the Notification of Non-Compliance with 37 C.F.R. 1.192(c) dated 17 March 2003, Applicant submits the following revised Appeal Brief in triplicate.

Applicants respectfully appeal the decision of Examiner Vidovich, dated 14 February 2002, finally rejecting claims 1 - 23, i.e., all of the claims pending in the present application. This brief is being filed in triplicate.

FEE AUTHORIZATION

Please charge the brief fee and time extension fee due in connection with this filing to our Deposit Account, No. 19-0733.

Revised Appeal Brief
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I. REAL PARTY IN INTEREST

The real party in interest in this appeal is James Stockman, named inventor in the above-identified application. This application is not assigned.

II. RELATED APPEALS AND INTERFERENCES

Appellant hereby confirms that there are no other appeals and/or interferences related to this application.

III. STATUS OF CLAIMS

Claims 1 - 23 have been presented in the above-identified application.

No claims have been withdrawn from consideration pursuant to a Restriction Requirement.

No claims have been were cancelled during prosecution.

No claims have been allowed, but Claim 18 has not been rejected based upon any prior art.

Claims 1 - 23 are presently on appeal (see the attached Appendix).

IV. STATUS OF AMENDMENTS (AFTER FINAL REJECTION)

The Applicant filed no response under Rule 116.

V. SUMMARY OF INVENTION

As disclosed at pages 4-8 (and particularly in original Figure 4), the present invention relates generally to a backpack and chair apparatus with the ability to convert between a balanced backpack and a structurally rigid chair of normal household size. The conversion requires only nominal assembly and effort, does not disrupt the pack load or its accessibility, and requires no tools or separate parts. This advantageously increases the simplicity of pack stowage and the availability of a chair upon demand by those who would otherwise tote a separate chair within or upon a backpack.

VI. ISSUES

- (1) Whether claims 1, 2, 4, 5, 6, 9, 10, 12, 19, and 23 are unpatentable under 35 U.S.C. §102 as anticipated by Black.
- (2) Whether claims 3, 11, and 20 are unpatentable under 35 U.S.C. §103 over Black in view of MacLean ('064).
- (3) Whether claims 7, 8, 13, 14, 16, and 23 are unpatentable under 35 U.S.C. §103 over Black in view of Fisher
- (4) Whether claim 15 is unpatentable under 35 U.S.C. §103 over Black in view of Fisher as applied above and further in view of MacLean ('064).
- (5) Whether claims 17 and 22 are unpatentable under 35 U.S.C. §103 over Black in view of Fisher as applied above and further in view of Gatling.
- (6) Whether claims 1 - 23 are unpatentable under 35 U.S.C. §112,

first paragraph, as based upon a non-enabling disclosure.

- (7) Whether claims 18, 22 and 23 are unpatentable under 35 U.S.C. §112, first paragraph, as not being described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
- (8) Whether claims 1 - 23 are unpatentable under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

VII. GROUPING OF CLAIMS

Appellant believes that all of the claims under appeal are separately patentable for the reasons set forth in the argument section that follows.

VIII. ARGUMENT

1. Rejections under 35 U.S.C. §112, first paragraph:

For each rejection under 35 U.S.C. §112, first paragraph, the argument shall specify errors in the rejection and show how the first paragraph if 35 U.S.C. §112 is in fact complied with, including, as appropriate, how the specification and drawings (if any):

- (a) describe the subject matter defined by each of the rejected claims,
- (b) enable any person skilled in the art to make and use the subject matter defined by each of the rejected claims, and

- (c) set forth the best mode contemplated by the inventor of carrying out his or her invention.

Claims 1-23 are rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Board should reverse this rejection for the following reasons:

To be enabling under Section 112, a patent must contain a description that enables **one skilled in the art** to make and use the claimed invention. *Raytheon Co. v. Roper Corp.*, 724 F.2d 951, 220 USPQ 592, (Fed. Cir. 1983), cert. denied, 105 S.Ct. 127, 225 USPQ 232 (1985). That some experimentation *may be* necessary does not preclude enablement.

It must also be noted that the specification of the invention is directed to **the skilled artisan**, not to the Examiner. The Examiner has the burden of giving reasons, supported by the record as a whole, why the specification is not enabling, i.e., why it entails undue experimentation. *In re Morehouse*, 545 F.2d 162, 192 USPQ 29 (CCPA 1976). The teaching of the present invention is complete, and by following this teaching, the skilled artisan will obtain the claimed invention.

The first paragraph of Section 112 requires nothing more than objective enablement to persons of ordinary skill in the art. *In re Bowen*, 492 F.2d 859, 181 USPQ 48, 50 (CCPA 1974). How such a teaching is set forth, either by use of illustrative examples or by broad terminology, is of no importance. *In re Marzocchi*, 439 F.2d 220, 169 USPQ 367, 369 (CCPA 1971).

A specification disclosure which contains a teaching of the manner and

process of making and using the invention in terms which correspond in scope to those used in describing and defining the subject matter sought to be patented must be taken as being in compliance with the enabling requirement of the first paragraph of Section 112, unless there is reason to doubt the objective truth of the statement contained therein which must be relied on for enabling support. *Id.*

Claim 1 reads as follows:

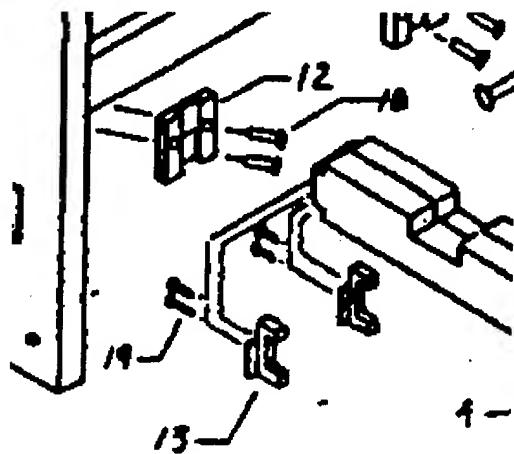
1. A backpack and chair apparatus, comprising:
 - a storage pack;
 - a frame attached to said storage pack, providing rigid structure and back support;
 - a plurality of straps attached to said frame enabling a person to carry said frame and said storage pack on one's back in a backpack mode;
 - a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode to a chair mode thereby enabling a person to sit on the apparatus as a chair;
 - a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person.

Regarding claim 1, the Examiner contends that the "latch" which, by disclosure, is part of the "locking assembly" is vaguely described rendering an ordinary artisan to speculate as to how this latch operates and performs. Appellant respectfully disagrees.

The term "latch" as used in this specification, is used in its ordinary sense - as "any of various mechanical devices in which mating mechanical parts

engage (and disengage) to fasten one another." The term is well understood by those having ordinary skill in the mechanical arts.

Figure 4 shows the "latch" as consisting of parts 12 and 13, as follows:



The claimed locking assembly includes the latch pieces illustrated, but other similar mechanical devices would likewise suffice. As fully set forth in the specification in describing the preferred embodiment, the parts 12 and 13 are defined as "bottom frame brace catch (12)" and "locking brace catch (13)." As illustrated, these are two interlocking members which operate by the male piece (13) sliding into the female piece (12) to stabilize the chair form of the frame.

The Examiner's confusion may lie in the fact that in original Figure 4, the lower locking braces (4) and (4a) are shown next to one another, whereas in reality they would be spaced apart - the width of the backpack frame. This compressed view of Figure 4 was simply used to show all of the elements without using an excessive number of pages of drawings.

While Claim 1 includes the term "latch" by inference (as part of the

locking assembly) as recited above, the dependent claims likewise contain this limitation and have thus been rejected collectively by the Examiner with Claim 1.

For example, Claim 2, which depends directly from Claim 1, also includes this feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the sub-frame is capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair.

Nothing in Claim 2 changes the analysis provided above for Claim 1 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

For example, Claim 3, which depends directly from Claim 1, also includes this feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the storage pack and frame are removably attached.

Nothing in Claim 3 changes the analysis provided above for Claim 1 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

For example, Claim 4, which depends directly from Claim 1, also includes this feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the apparatus further comprises a cushion attached to the sub-frame such that it acts as a back support when the

apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

Nothing in Claim 4 changes the analysis provided above for Claim 1 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

For example, Claim 5, which depends directly from Claim 4, and thus indirectly from Claim 1, also includes this feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the cushion is removably attached to the sub-frame.

Nothing in Claim 5 changes the analysis provided above for Claim 1 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Likewise, Claim 18, which depends directly from Claim 1, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the apparatus further comprises a strap attached to the sub frame operative as a sway brace when in the chair mode.

Nothing in Claim 18 changes the analysis provided above for Claim 1 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Similarly, Claim 19, which depends directly from Claim 1, also includes

the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the apparatus further comprises a plurality of seat braces operative as stabilizers to prevent the chair from collapsing forward.

Nothing in Claim 19 changes the analysis provided above for Claim 1 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Likewise, Claim 20, which depends directly from Claim 1, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the pack bag is removably attached with a plurality of turn buckles.

Nothing in Claim 20 changes the analysis provided above for Claim 1 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Similarly, Claim 21, which depends directly from Claim 4 and thus indirectly from Claim 1, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the cushion is wedge shaped.

Nothing in Claim 21 changes the analysis provided above for Claim 1 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Likewise, Claim 22, which depends directly from Claim 5 and thus indirectly from Claim 1, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the cushion is attached using side release buckles.

Nothing in Claim 22 changes the analysis provided above for Claim 1 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Claim 6 is another independent claim, which includes the locking assembly recitation used in Claim 1, and thus, includes the "latch". Claim 6 reads as follows:

6. A backpack and chair apparatus, comprising:
 - a storage pack;
 - a frame attached to said storage pack providing rigid structure and back support;
 - a plurality of straps attached to said frame enabling a person to carry the said frame and said storage pack on one's back in a backpack mode;
 - a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair;
 - a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person;
 - a cushion attached to the sub-frame such that it acts as a back support

when the apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

The analysis provided above for Claim 1 applies equally as well to Claim 6. The skilled artisan can clearly understand and appreciate how to make and use the presently claimed invention, from the specification as filed and from the drawings as filed. The Board should reverse the Section 112, first paragraph rejection of this claim. Such action is respectfully requested.

Nothing in dependent claims changes the analysis provided above for Claims 1 and 6 regarding Section 112, first paragraph. Accordingly, the claims that depend either directly or indirectly from Claim 6 are patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

For example, Claim 7, which depends directly from Claim 6, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the locking assembly comprises a jointed swing arm pivotally attached at one end to the sub-frame and removably attachable at the other end to the frame, such that one segment of the jointed swing arm acts as a chair leg to the sub-frame when in the chair mode.

Nothing in Claim 7 changes the analysis provided above for Claims 1 and 6 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Likewise, Claim 8, which depends directly from Claim 7, and thus indirectly from Claim 6, also includes the locking assembly (and latch) feature

by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the conversion of the sub-frame between backpack mode and chair mode, and correspondingly of the locking assembly between the backpack enabling position and the chair locking position, requires no tools of assembly and is performed with nominal effort.

Nothing in Claim 8 changes the analysis provided above for Claims 1 and 6 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Similarly, Claim 9, which depends directly from Claim 6, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the sub-frame, when in chair mode, enables a person to sit on the apparatus as a chair of normal household stability and size.

Nothing in Claim 9 changes the analysis provided above for Claims 1 and 6 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Likewise, Claim 10, which depends directly from Claim 6, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the 10. The backpack and chair apparatus of claim 6, wherein said straps are attached to the frame at a position that facilitates a balanced pack load that does not ride uncomfortably low on a user's back when in the backpack mode.

Nothing in Claim 10 changes the analysis provided above for Claims 1

and 6 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Similarly, Claim 11, which depends directly from Claim 6, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the storage pack and frame are removably attached.

Nothing in Claim 11 changes the analysis provided above for Claims 1 and 6 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Likewise, Claim 12, which depends directly from Claim 6, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the cushion is removably attached to the sub-frame.

Nothing in Claim 12 changes the analysis provided above for Claims 1 and 6 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Similarly, Claim 23, which depends directly from Claim 7, and thus indirectly from Claim 6, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the locking assembly further comprises a male locking brace and a female brace catch that interconnect to secure the locking assembly.

Nothing in Claim 23 changes the analysis provided above for Claims 1 and 6 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Claim 13 is another independent claim, which includes the locking assembly recitation used in Claims 1 and 6, and thus, includes the "latch". Claim 13 reads as follows:

13. A backpack and chair apparatus, comprising:
 - a storage pack;
 - a frame attached to said storage pack providing rigid structure and back support;
 - a plurality of straps attached to said frame enabling a person to carry the said frame and said storage pack on one's back in a backpack mode, wherein said straps are attached to the frame at a position that facilitates a balanced pack load that does not ride uncomfortably low on a user's back when in the backpack mode;
 - a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair of normal household stability and size;
 - a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person, wherein said locking assembly comprises a plurality of jointed swing arms pivotally attached at one end to the sub-frame and removably attachable at the other end to the frame, such that one segment of each jointed swing arm acts as a chair leg to

the sub-frame when in the chair mode;

wherein conversion of the sub-frame between backpack mode and chair mode, and correspondingly of the locking assembly between the backpack enabling position and the chair locking position, requires no tools of assembly and is performed with nominal effort;

a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

The analysis provided above for Claims 1 and 6 applies equally as well to Claim-13. The skilled artisan can clearly understand and appreciate how to make and use the presently claimed invention, from the specification as filed and from the drawings as filed. The Board should reverse the Section 112, first paragraph rejection of this claim. Such action is respectfully requested.

Nothing in dependent claims changes the analysis provided above for Claims 1 and 6 regarding Section 112, first paragraph. Accordingly, the claims that depend either directly or indirectly from Claim 13 are patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

For example, Claim 14, which depends directly from Claim 13, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the locking assembly comprises a plurality of the said jointed swing arm.

Nothing in Claim 14 changes the analysis provided above for Claims 1, 6 and 13 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Similarly, Claim 15, which depends directly from Claim 13, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the storage pack and frame are removably attached.

Nothing in Claim 15 changes the analysis provided above for Claims 1, 6 and 13 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Likewise, Claim 16, which depends directly from Claim 13, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the cushion is removably attached to the sub-frame.

Nothing in Claim 16 changes the analysis provided above for Claims 1, 6 and 13 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Similarly, Claim 17, which depends directly from Claim 16 and thus indirectly from Claim 13, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the cushion further includes a zipper for ease of removal.

Nothing in Claim 17 changes the analysis provided above for Claims 1, 6 and 13 regarding Section 112, first paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Claims 18, 22 and 23 are rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Board should reverse this rejection for the following reasons:

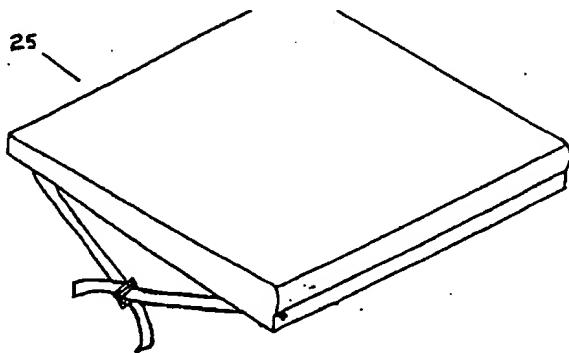
The written description includes the drawings – and based upon both – it is clear that the inventor had possession of the claimed invention. The backpack chair was built, it was functional as disclosed, and the drawings show the device in an exploded view in Figure 4. For this Figure alone, the skilled artisan could make and use the invention taught and claimed by this inventor. Nothing more is required under Section 112, first paragraph.

Regarding Claim 18, the Examiner contends that the strap merely being attached only to the sub frame is subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Appellant respectfully disagrees. As stated at page 3, lines 2-4: "The pack and straps are attached to the frame to enable the frame and pack to be carried on one's back when loaded with gear. This is the backpack mode of the apparatus." What more is required under Section 112?

Regarding Claim 22, the cushion being attached merely by "side release buckles" is subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Appellant respectfully disagrees. At page 3 the cushion is described as being "removably attached to the sub-frame." Figure 4 illustrates the cushion as follows:



Appellant submits that the "strap" shown in Figure 4 supports the "side release buckles" language complained of by the Examiner. One is clearly shown in the Figure (the other being hidden in this view).

Regarding Claim 23, the male and female locking braces are subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Appellant respectfully traverses this rejection as previously discussed. The male and female locking braces comprise braces (4) and (4a) which further include the locking parts (12) and (13) previously discussed above.

Appellant submits that original Figure 4 fully supports the claimed invention under Section 112, first paragraph, and the Examiner's objections and/or rejections thereunder should be reversed.

2. Rejections under 35 U.S.C. §112, second paragraph:

For each rejection under 35 U.S.C. §112, second paragraph, the argument shall specify the errors in the rejection and specify how the claims particularly point out and distinctly claim the subject matter which Appellant regards as the invention.

Claims 1-23 are collectively rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Board should reverse this rejection for the following reasons:

The second paragraph of Section 112 is merely concerned with the precision and definiteness of the claim language. When the scope of the subject matter embraced by the claim is clear and when the applicant has not otherwise indicated an intent to claim a different scope, then the claim language satisfies the provisions of 35 U.S.C. §112, second paragraph. *In re Borkowski*, 422 F.2d 904, 164 USPQ 642 (CCPA 1970).

A claim is indefinite, and thus contrary to the provisions of the second paragraph of Section 112, ONLY if it embraces subject matter that the applicant did not intend to claim, or if its scope takes on an unreasonable degree of uncertainty when construed in light of specification disclosure and the prior art. *In re Cormany*, 476 F.2d 988, 177 USPQ 450 (CCPA 1973). The subject matter claimed herein is precisely the subject matter described in detail in the specification. Section 112, second paragraph has been fully complied with, and this rejection should be reconsidered and withdrawn. Such action is respectfully requested.

Regarding Claim 1, the Examiner contends that the operation of the

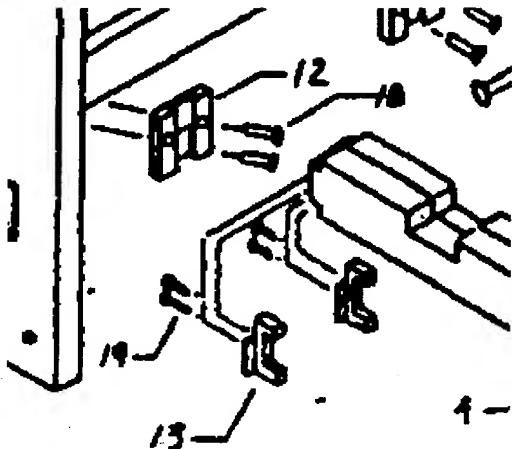
locking assembly is unclear rendering the claim indefinite. Appellant submits that the locking assembly is fully taught in Figure 4 as filed and in the description in the specification of the parts that make up the locking assembly. The claim language, which is very clear, is thus not rendered indefinite, as it fully complies with the requirements of the second paragraph of Section 112, in that it particularly points out and distinctly claims the subject matter which applicant regards as the invention. The Board should reverse this rejection.

Claim 1 reads as follows:

1. A backpack and chair apparatus, comprising:
 - a storage pack;
 - a frame attached to said storage pack, providing rigid structure and back support;
 - a plurality of straps attached to said frame enabling a person to carry said frame and said storage pack on one's back in a backpack mode;
 - a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode to a chair mode thereby enabling a person to sit on the apparatus as a chair;
 - a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person.

The term "latch" as used in this specification, is used in its ordinary sense - as "any of various mechanical devices in which mating mechanical parts engage (and disengage) to fasten one another." The term is well understood by those having ordinary skill in the mechanical arts.

Figure 4 shows the "latch" as consisting of parts 12 and 13, as follows:



The claimed locking assembly includes the latch pieces illustrated, but other similar mechanical devices would likewise suffice. As fully set forth in the specification in describing the preferred embodiment, the parts 12 and 13 are defined as "bottom frame brace catch (12)" and "locking brace catch (13)." As illustrated, these are two interlocking members, which operate by the male piece (13) sliding into the female piece (12) to stabilize the chair form of the frame.

The Examiner's confusion may lie in the fact that in original Figure 4, the lower locking braces (4) and (4a) are shown next to one another, whereas in reality they would be spaced apart - the width of the backpack frame. This compressed view of Figure 4 was simply used to show all of the elements without using an excessive number of pages of drawings.

While Claim 1 includes the term "latch" by inference (as part of the locking assembly) as recited above, the dependent claims likewise contain this limitation and have thus been rejected collectively by the Examiner with Claim

1.

For example, Claim 2, which depends directly from Claim 1, also includes this feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the sub-frame is capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair.

Nothing in Claim 2 changes the analysis provided above for Claim 1 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Similarly, Claim 3, which depends directly from Claim 1, also includes this feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the storage pack and frame are removably attached.

Nothing in Claim 3 changes the analysis provided above for Claim 1 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Likewise, Claim 4, which depends directly from Claim 1, also includes this feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the apparatus further comprises a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the apparatus is

in the chair mode.

Nothing in Claim 4 changes the analysis provided above for Claim 1 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Similarly, Claim 5, which depends directly from Claim 4, and thus indirectly from Claim 1, also includes this feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the cushion is removably attached to the sub-frame.

Nothing in Claim 5 changes the analysis provided above for Claim 1 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Likewise, Claim 18, which depends directly from Claim 1, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the apparatus further comprises a strap attached to the sub frame operative as a sway brace when in the chair mode.

Nothing in Claim 18 changes the analysis provided above for Claim 1 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Similarly, Claim 19, which depends directly from Claim 1, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but

recites additional aspects of the invention, namely the fact that the apparatus further comprises a plurality of seat braces operative as stabilizers to prevent the chair from collapsing forward.

Nothing in Claim 19 changes the analysis provided above for Claim 1 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Likewise, Claim 20, which depends directly from Claim 1, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the pack bag is removably attached with a plurality of turn buckles.

Nothing in Claim 20 changes the analysis provided above for Claim 1 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Similarly, Claim 21, which depends directly from Claim 4 and thus indirectly from Claim 1, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the cushion is wedge shaped.

Nothing in Claim 21 changes the analysis provided above for Claim 1 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Likewise, Claim 22, which depends directly from Claim 5 and thus

indirectly from Claim 1, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the cushion is attached using side release buckles.

Nothing in Claim 22 changes the analysis provided above for Claim 1 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Claim 6 is another independent claim, which includes the locking assembly recitation used in Claim 1, and thus, includes the "latch" as discussed above regarding Claim 1. Claim 6 reads as follows:

6. A backpack and chair apparatus, comprising:
 - a storage pack;
 - a frame attached to said storage pack providing rigid structure and back support;
 - a plurality of straps attached to said frame enabling a person to carry the said frame and said storage pack on one's back in a backpack mode;
 - a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair;
 - a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person;
 - a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the

apparatus is in the chair mode.

The Section 112, second paragraph analysis provided above for Claim 1 applies equally as well to Claim 6. The skilled artisan can clearly understand and appreciate the invention as claimed, as well as how to make and use the same, from the specification as filed, from the claims as presently amended, and from the drawings as filed. The Board should reverse the Section 112, second paragraph rejection of this claim. Such action is respectfully requested.

Nothing in dependent claims changes the analysis provided above for Claims 1 and 6 regarding Section 112, second paragraph. Accordingly, the claims that depend either directly or indirectly from Claim 6 are patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

For example, Claim 7, which depends directly from Claim 6, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the locking assembly comprises a jointed swing arm pivotally attached at one end to the sub-frame and removably attachable at the other end to the frame, such that one segment of the jointed swing arm acts as a chair leg to the sub-frame when in the chair mode.

Nothing in Claim 7 changes the analysis provided above for Claims 1 and 6 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Likewise, Claim 8, which depends directly from Claim 7, and thus indirectly from Claim 6, also includes the locking assembly (and latch) feature

by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the conversion of the sub-frame between backpack mode and chair mode, and correspondingly of the locking assembly between the backpack enabling position and the chair locking position, requires no tools of assembly and is performed with nominal effort.

Nothing in Claim 8 changes the analysis provided above for Claims 1 and 6 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Similarly, Claim 9, which depends directly from Claim 6, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the sub-frame, when in chair mode, enables a person to sit on the apparatus as a chair of normal household stability and size.

Nothing in Claim 9 changes the analysis provided above for Claims 1 and 6 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Likewise, Claim 10, which depends directly from Claim 6, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the 10. The backpack and chair apparatus of claim 6, wherein said straps are attached to the frame at a position that facilitates a balanced pack load that does not ride uncomfortably low on a user's back when in the backpack mode.

Nothing in Claim 10 changes the analysis provided above for Claims 1

and 6 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Similarly, Claim 11, which depends directly from Claim 6, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the storage pack and frame are removably attached.

Nothing in Claim 11 changes the analysis provided above for Claims 1 and 6 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Likewise, Claim 12, which depends directly from Claim 6, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the cushion is removably attached to the sub-frame.

Nothing in Claim 12 changes the analysis provided above for Claims 1 and 6 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Similarly, Claim 23, which depends directly from Claim 7, and thus indirectly from Claim 6, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the locking assembly further comprises a male locking brace and a female brace catch that interconnect to secure the locking assembly.

Nothing in Claim 23 changes the analysis provided above for Claims 1 and 6 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Claim 13 is another independent claim, which includes the locking assembly recitation used in Claims 1 and 6, and thus, includes the "latch". Claim 13 reads as follows:

13. A backpack and chair apparatus, comprising:
 - a storage pack;
 - a frame attached to said storage pack providing rigid structure and back support;
 - a plurality of straps attached to said frame enabling a person to carry the said frame and said storage pack on one's back in a backpack mode, wherein said straps are attached to the frame at a position that facilitates a balanced pack load that does not ride uncomfortably low on a user's back when in the backpack mode;
 - a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair of normal household stability and size;
 - a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person, wherein said locking assembly comprises a plurality of jointed swing arms pivotally attached at one end to the sub-frame and removably attachable at the other end to the frame, such that one segment of each jointed swing arm acts as a chair leg to

the sub-frame when in the chair mode;

wherein conversion of the sub-frame between backpack mode and chair mode, and correspondingly of the locking assembly between the backpack enabling position and the chair locking position, requires no tools of assembly and is performed with nominal effort;

a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

The Section 112, second paragraph analysis provided above for Claims 1 and 6 applies equally as well to Claim 13. The skilled artisan can clearly understand and appreciate what the Appellant regards as the invention, as well as how to make and use the same, from the claim language, from the specification, and from the drawings. The Board should reverse the Section 112, second paragraph rejection of this claim. Such action is respectfully requested.

Nothing in dependent claims changes the analysis provided above for Claims 1 and 6 regarding Section 112, second paragraph. Accordingly, the claims that depend either directly or indirectly from Claim 13 are patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

For example, Claim 14, which depends directly from Claim 13, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the locking assembly comprises a plurality of the said jointed swing arm.

Nothing in Claim 14 changes the analysis provided above for Claims 1, 6 and 13 regarding Section 112, second paragraph. Accordingly, this Claim is

patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Similarly, Claim 15, which depends directly from Claim 13, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the storage pack and frame are removably attached.

Nothing in Claim 15 changes the analysis provided above for Claims 1, 6 and 13 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Likewise, Claim 16, which depends directly from Claim 13, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the cushion is removably attached to the sub-frame.

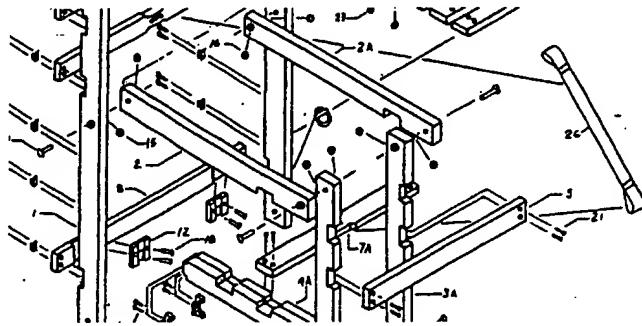
Nothing in Claim 16 changes the analysis provided above for Claims 1, 6 and 13 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Similarly, Claim 17, which depends directly from Claim 16 and thus indirectly from Claim 13, also includes the locking assembly (and latch) feature by virtue of the dependency alone, but recites additional aspects of the invention, namely the fact that the cushion further includes a zipper for ease of removal.

Nothing in Claim 17 changes the analysis provided above for Claims 1, 6

and 13 regarding Section 112, second paragraph. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Regarding claim 18, the Examiner believes that it is unclear as to how the strap can operate as a sway brace if attached only to the subframe. Here the Examiner confuses the shoulder straps (27) with brace strap (26). See Figure 4:



Claim 18 depends directly from Claim 1 and includes all of the limitations recited therein.

Claim 1 reads as follows:

1. A backpack and chair apparatus, comprising:
 - a storage pack;
 - a frame attached to said storage pack, providing rigid structure and back support;
 - a plurality of straps attached to said frame enabling a person to carry said frame and said storage pack on one's back in a backpack mode;
 - a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode to a chair mode thereby enabling a person to sit on

the apparatus as a chair;

a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person.

Claim 18 reads as follows:

18. The backpack and chair apparatus of Claim 1 further comprising a strap attached to the sub frame operative as a sway brace when in the chair mode.

Appellant submits that the language used in the combination of Claims 1 and 18 both particularly points out and distinctly defines the invention of the Appellant, and respectfully requests the Board to reverse this Section 112, second paragraph rejection.

3. Rejections under 35 U.S.C. §102:

For each rejection under 35 U.S.C. §102, the argument shall specify the errors in the rejection and why the rejected claims are patentable under 35 U.S.C. §102, including any specific limitations in the rejected claims which are not described in the prior art relied upon in the rejection.

Claims 1, 2, 4, 5, 6, 9, 10, 12, 19, and 23 are rejected under 35 U.S.C. §102(b) as being anticipated by Black. The Board should reverse this rejection for the following reasons:

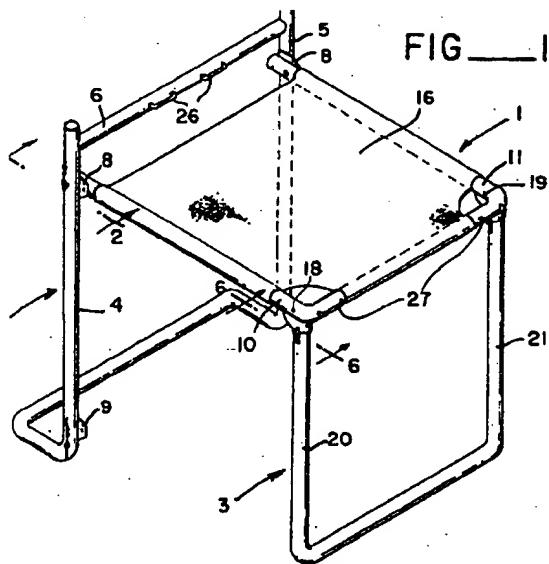
It is axiomatic that for a cited document to constitute an anticipation, **all of the material elements of a claim** must be found in the cited document. See for example, *In re Marshall*, 577 F.2d 301, 198 USPQ 344 (CCPA 1978); and *In re Kalm*, 378 F.2d 959, 154 USPQ 10 (CCPA 1967). Black does not teach all of the material elements of the rejected claims and accordingly, this rejection must be reversed by the Board.

Claim 1 recites a backpack and chair apparatus, which by definition in the specification entails a balanced backpack mounted to a frame which may be converted into a structurally rigid chair of normal household size. The conversion requires only nominal assembly and effort, does not disrupt the pack load or its accessibility, and requires no tools or separate parts..

The Black reference discloses a backpack and a frame, which converts merely into a "folding stool" **as defined therein**. There is no "chair back" as required by the plain meaning of the term "chair" as used in claim 1, and thus, this reference fails to anticipate the rejected claims. This rejection should be reversed for this simple reason - Black teaches a stool, the present inventor teaches and claims a chair - an object that by definition has a seat, four legs,

and a back - for sitting use by one person.

Black's invention is illustrated as follows:



Claim 2, which depends directly from Claim 1, also includes all of the limitations thereof and further recites additional aspects of the invention, namely the fact that the sub-frame is capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair.

Nothing in Claim 2 changes the analysis provided above for Claim 1 regarding Section 102. Black simply fails to teach the material elements of this claim. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Likewise, Claim 4, which depends directly from Claim 1, also includes all of the limitations recited therein by virtue of the dependency alone, but recites

additional aspects of the invention, namely the fact that the apparatus further comprises a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

Nothing in Claim 4 changes the analysis provided above for Claim 1 regarding Section 102. Black simply fails to teach the material elements of this claim. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Similarly, Claim 5, which depends directly from Claim 4, and thus indirectly from Claim 1, also includes every limitation of the claims from which it depends by virtue of the dependency alone, but also recites additional aspects of the invention, namely the fact that the cushion is removably attached to the sub-frame.

Nothing in Claim 5 changes the analysis provided above for Claim 1 regarding Section 102. Black simply fails to teach the material elements of this claim. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 1. No further argument is necessary.

Likewise, Claim 19, which depends directly from Claim 1, also includes each and every limitation recited therein by virtue of dependency alone, but also recites additional aspects of the invention, namely the fact that the apparatus further comprises a plurality of seat braces operative as stabilizers to prevent the chair from collapsing forward.

Nothing in Claim 19 changes the analysis provided above for Claim 1 regarding Section 102. Black simply fails to teach the material elements of this claim. Accordingly, this Claim is patentable for the same reasons set forth

above as for Claim 1. No further argument is necessary.

Claim 6 is another independent claim, which includes material elements similar to those of Claim 1, again which are not taught by Black.

Claim 6 reads as follows:

6. A backpack and chair apparatus, comprising:
 - a storage pack;
 - a frame attached to said storage pack providing rigid structure and back support;
 - a plurality of straps attached to said frame enabling a person to carry the said frame and said storage pack on one's back in a backpack mode;
 - a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair;
 - a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person;
 - a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

The analysis provided above for Claim 1 applies equally as well to Claim 6. Black simply fails to teach the each and every material element of this claim. The Board must reverse the Section 102 rejection of this claim. Such action is respectfully requested.

Nothing in the dependent claims changes the analysis provided above for Claims 1 and 6 regarding Section 102. Accordingly, the claims that depend either directly or indirectly from Claim 6 are patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

For example, Claim 9, which depends directly from Claim 6, and thus includes each and every limitation recited therein, also recites additional aspects of the invention, namely the fact that the sub-frame, when in chair mode, enables a person to sit on the apparatus as a chair of normal household stability and size.

Nothing in Claim 9 changes the analysis provided above for Claims 1 and 6 regarding Section 102. Black simply fails to teach the material elements of this claim. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Likewise, Claim 10, which depends directly from Claim 6, also includes each and every limitation of that Claim, and further recites additional aspects of the invention, namely the fact that the straps are attached to the frame at a position that facilitates a balanced pack load that does not ride uncomfortably low on a user's back when in the backpack mode.

Nothing in Claim 10 changes the analysis provided above for Claims 1 and 6 regarding Section 102. Black simply fails to teach the material elements of this claim. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Similarly, Claim 12, which depends directly from Claim 6, also includes each and every limitation of that independent claim and further recites additional aspects of the invention, namely the fact that the cushion is

removably attached to the sub-frame.

Nothing in Claim 12 changes the analysis provided above for Claims 1 and 6 regarding Section 102. Black simply fails to teach the material elements of this claim. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

Similarly, Claim 23, which depends directly from Claim 7, and thus indirectly from Claim 6, also includes every limitation of the claims from which it depends and further recites additional aspects of the invention, namely the fact that the locking assembly further comprises a male locking brace and a female brace catch that interconnect to secure the locking assembly.

Nothing in Claim 23 changes the analysis provided above for Claims 1 and 6 regarding Section 102. Black simply fails to teach the material elements of this claim. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 1 and 6. No further argument is necessary.

4. Rejections under 35 U.S.C. §103:

For each rejection under 35 U.S.C. §103, the argument shall specify the errors in the rejection and, if appropriate, the specific limitations in the rejected claims which are not described in the prior art relied upon in the rejection, and shall explain how such limitations render the claimed subject matter unobvious over the prior art.

Claims 3, 11, and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Black in view of MacLean ('064). The Board should reverse this rejection for the following reasons:

A critical step in analyzing the patentability of claims pursuant to Section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. *See Dembiczak*, 175 F.3d at 999, 50 USPQ2d at 1617. Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one ‘to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher.’ *Id.* (quoting *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 313 (Fed. Cir. 1983)).

Most if not all inventions arise from a combination of old elements. *See In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457 (Fed. Cir. 1998). Thus, every element of a claimed invention may often be found in the prior art. *See id.* However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. *See id.* Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or

teaching of the desirability of making the specific combination that was made by the applicant. See *In re Dance*, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998); *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984).

In the present invention, Appellant submits that there is no motivation, either explicit or implicit, in the cited art to make the changes necessary therein to provide the presently claimed invention. Accordingly, the Board should reverse this rejection.

- Claims 3, 11 and 20 depend either directly or indirectly from Claim 1 and contain all of the limitations thereof. Moreover, it is noted that the primary reference used in support of this obviousness rejection is the Black patent, which has been distinguished above. Black fails to teach the required "chair" aspect of the present invention, and nothing in the Black reference, considered either alone or in combination with any other reference cited by the Examiner, would motivate the artisan to modify the Black "stool" into a "chair" as required by the claims. The Black teaching is clear and specific - the frame provides a stool for use by hunters, campers, etc. If they wanted a chair, the Black reference does not provide it.

Claim 1 reads as follows:

1. A backpack and chair apparatus, comprising:
 - a storage pack;
 - a frame attached to said storage pack, providing rigid structure and back support;
 - a plurality of straps attached to said frame enabling a person to carry said frame and said storage pack on one's back in a backpack mode;
 - a sub-frame pivotally attached to said frame and capable of being pivoted

from the backpack mode to a chair mode thereby enabling a person to sit on the apparatus as a chair;

a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person.

Claim 3 reads as follows:

3. The backpack and chair apparatus of claim 1, wherein the storage pack and frame are removably attached.

As admitted by the Examiner, Black is silent (regarding claim 3) as to whether the pack is removable from the stool frame. However, to find this feature in the art, the Examiner cites the MacLean reference.

MacLean's invention consists of a folding aluminum lawn chair with a frameless backpack attached to it. See Figure 5 (reproduced below). Unlike the present invention, MacLean does not provide a true "backpack" frame as those having ordinary skill in the art commonly use that term. As those having ordinary skill in this art know, a true backpack "frame" rides against the users' body and assists in load distribution and prevents injury to the wearer of a backpack. In other words, the term "backpack frame" is a term of art that has a well recognized and accepted meaning. In the MacLean patent, the user carries the backpack by the shoulder straps and the "chair frame" rides on the outside - away from the user's body. There is no backpack frame employed in the McLean patent. It is simply a lawn chair mounted on the outside (away from the pack wearer) of the backpack.

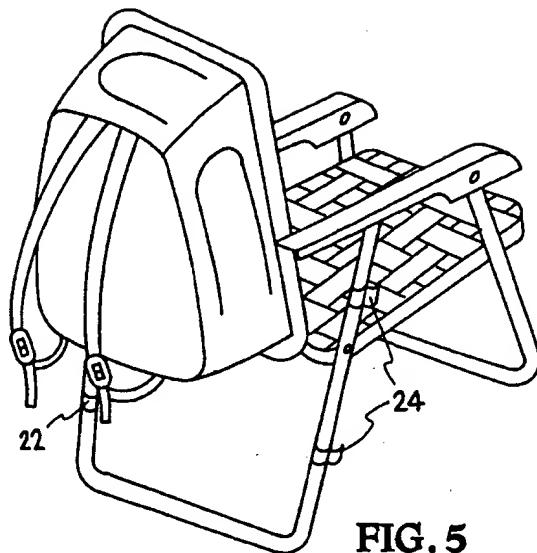


FIG. 5

Clearly, the teachings of Black and MacLean are not compatible, as one employs a traditional backpack frame (convertible to a stool) and the other has simply strapped a lawn chair onto the outer portion of a backpack - using no other frame to carry this load.

Thus the proposed combination of art simply fails to teach or suggest the present invention, which must be viewed as a whole, and not merely in simple segments or portions as defined in dependent claims. The invention as a whole for Claim 3 includes that claim language as well as the language of independent Claim 1. The invention thus claimed is clearly not taught by the cited art.

The invention as a whole for Claim 11 includes that claim language as well as the language of independent Claim 6. The invention thus claimed is clearly not taught by the cited art.

Claim 11 reads as follows:

11. The backpack and chair apparatus of claim 6, wherein the storage pack and frame are removably attached.

Claim 11, which depends directly from independent Claim 6, also includes all of the elements recited therein and recites additional aspects of the invention, namely the fact that the pack bag is removably attached with a plurality of turn buckles.

Claim 6 reads as follows:

6. A backpack and chair apparatus, comprising:
a storage pack;
a frame attached to said storage pack providing rigid structure and back support;
a plurality of straps attached to said frame enabling a person to carry the said frame and said storage pack on one's back in a backpack mode;
a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair;
a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person;
a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

Nothing in Claim 11 changes the analysis provided above for Claims 3 and 1 regarding Section 103. Clearly, the proposed combination of art simply

fails to teach or suggest the present invention, which must be viewed as a whole, and not merely in simple segments or portions as defined in dependent Claim 11 (which includes Claim 6). Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 3 and 1. No further argument is necessary.

The invention as a whole for Claim 20 includes that claim language as well as the language of Claim 3, which further includes the language of Claim 1. The invention thus claimed is clearly not taught by the cited art.

Claim 20 reads as follows:

20. The backpack and chair apparatus of Claim 3 wherein the pack bag is removably attached with a plurality of turn buckles.

Claim 20, which depends directly from Claim 3, and thus indirectly from Claim 1, also includes all of the elements recited therein and recites additional aspects of the invention, namely the fact that the pack bag is removably attached with a plurality of turn buckles.

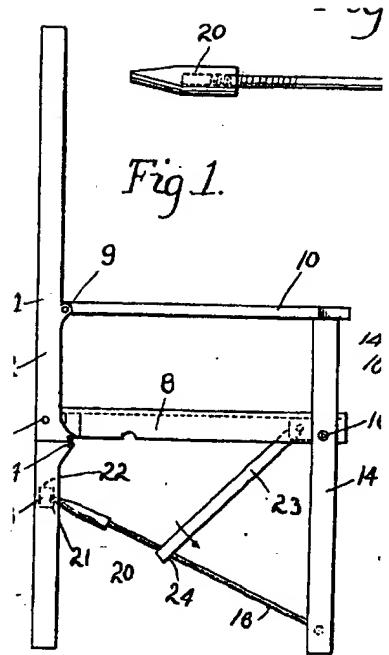
Nothing in Claim 20 changes the analysis provided above for Claims 11, 6, 3 and 1 regarding Section 103. Clearly, the proposed combination of art simply fails to teach or suggest the present invention, which must be viewed as a whole, and not merely in simple segments or portions as defined in dependent claim 20 (which includes Claims 3 and 1). Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 11, 6, 3 and 1. No further argument is necessary.

Claims 7, 8, 13, 14, 16, and 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Black in view of Fisher. The Board should reverse this rejection for the following reasons:

The Black reference discloses a backpack and a frame that converts into a "folding stool" as defined therein. There is no "chair back" as required by the plain meaning of the term "chair" as used in Claim 1, and thus, this reference fails to make obvious the rejected claims. This rejection should be reversed for this simple reason - Black simply teaches a stool, the present inventor teaches and claims a chair - an object having a seat, four legs, and a back - for sitting use by one person. What motivation from the cited art supports the change from Black's stool to the present inventor's chair?

Fisher discloses a folding chair, similar in design to the Appellant's preferred embodiment, but Fisher makes no mention, teaching or suggestion regarding the possible use thereof as a backpack frame. It is clear from the teachings of Fisher that his invention is simply a folding chair – nothing more. What motivation from the cited art supports the change from Fisher's folding chair to the present inventor's backpack frame that doubles as a chair?

Fisher also shows arms on his chair and other component parts that would not be useful in the backpack frame of the claimed invention. The Examiner is selectively picking and choosing the elements needed to make a case of obviousness out of the prior art in a piecemeal or "menu" fashion. This is simply not a proper Section 103 analysis, and the Board must reverse the Section 103 rejections based thereon.



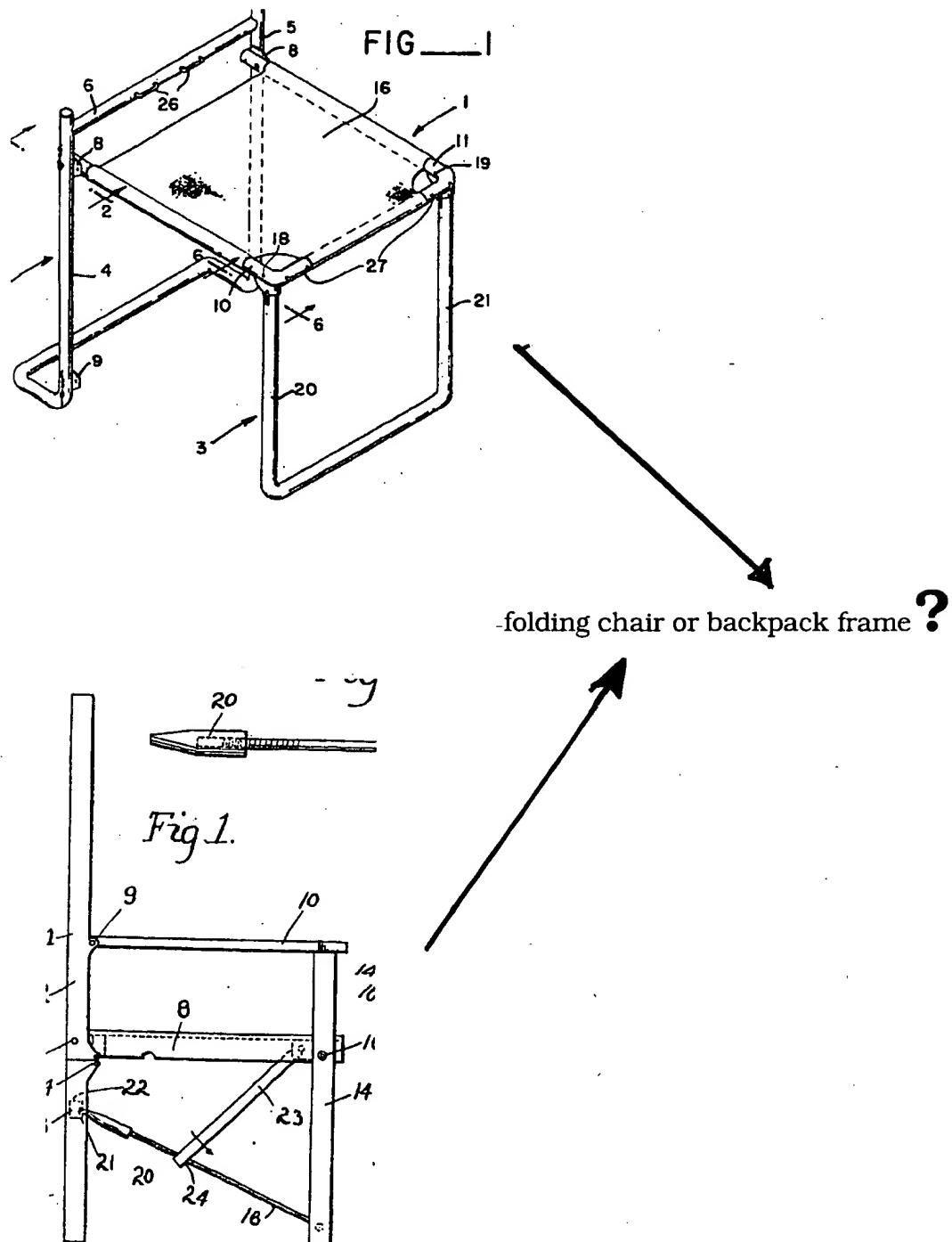
Apparently the Examiner relies upon the Fisher patent as providing support for rejecting the locking assembly recited in the rejected claims. This rejection ignores the other limitations of the invention as a whole and amounts to a piecemeal rejection of individual elements.

As the Federal Circuit has repeatedly stated, "virtually all inventions are combinations of old elements." Therefore, an Examiner may often find every element of a claimed invention in the prior art. If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an Examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. To counter this potential weakness in the obviousness construct, the "suggestion to combine" requirement stands as a critical safeguard against hindsight analysis and rote

application of the legal test for obviousness. Applicant submits that it is the "suggestions to combine" that is lacking in all of the Section 103(a) obviousness rejections made in this Office Action. Where is the motivation? It must come from the prior art, not from Applicant's disclosure.

Claim 7, which depends directly from independent Claim 6, and includes all of the limitations thereof and recites additional aspects of the invention, namely the fact that the locking assembly comprises a jointed swing arm pivotally attached at one end to the sub-frame and removably attachable at the other end to the frame, such that one segment of the jointed swing arm acts as a chair leg to the sub-frame when in the chair mode.

Claim 7 is neither taught nor suggested by the proposed combination of the Black and Fisher references. First, as stated above, the references are not properly combinable as suggested by the Examiner. However, even if properly combinable, the teachings as a whole of the two references must be considered, not just the selected portions dictated by the presently rejected claims. When such an analysis is properly made, the resulting combined teaching looks nothing like the presently claimed invention.



Similarly, Claim 8, which depends directly from Claim 7, and thus

indirectly from Claim 6, and thereby includes all of the limitations by virtue of the dependency alone, and further recites additional aspects of the invention, namely the fact that the conversion of the sub-frame between backpack mode and chair mode, and correspondingly of the locking assembly between the backpack enabling position and the chair locking position, requires no tools of assembly and is performed with nominal effort.

Nothing in Claim 8 changes the analysis provided above for Claim 7 regarding Section 103. Clearly, the proposed combination of art simply fails to teach or suggest the present invention, which must be viewed as a whole, and not merely in simple segments or portions as defined in dependent claim 8. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 7. No further argument is necessary.

Claim 13 is another independent claim, which reads as follows:

13. A backpack and chair apparatus, comprising:
 - a storage pack;
 - a frame attached to said storage pack providing rigid structure and back support;
 - a plurality of straps attached to said frame enabling a person to carry the said frame and said storage pack on one's back in a backpack mode, wherein said straps are attached to the frame at a position that facilitates a balanced pack load that does not ride uncomfortably low on a user's back when in the backpack mode;
 - a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair of normal household stability and size;

a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person, wherein said locking assembly comprises a plurality of jointed swing arms pivotally attached at one end to the sub-frame and removably attachable at the other end to the frame, such that one segment of each jointed swing arm acts as a chair leg to the sub-frame when in the chair mode;

wherein conversion of the sub-frame between backpack mode and chair mode, and correspondingly of the locking assembly between the backpack enabling position and the chair locking position, requires no tools of assembly and is performed with nominal effort;

a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

The analysis provided above for Claim 7 applies equally as well to Claim 13. The skilled artisan would not find any motivation in the cited prior art of Black and Fisher to make the changes necessary therein to arrive at anything approximating the invention defined by Claim 13.

The Black reference discloses a backpack and a frame, which converts into a "folding stool" as defined therein. There is no "chair back" as required by the plain meaning of the term "chair" as used in Claim 1, and thus, this reference fails to make obvious the rejected claims. This rejection should be reversed for this simple reason - Black simply teaches a stool, the present inventor teaches and claims a chair - an object having a seat, four legs, and a back - for sitting use by one person. What motivation from the cited art supports the change from Black's stool to the present inventor's chair?

Fisher discloses a folding chair, similar in design to the Appellant's preferred embodiment, but Fisher makes no mention, teaching or suggestion regarding the possible use thereof as a backpack frame. What motivation from the cited art supports the change from Fisher's folding chair to the present inventor's backpack frame that doubles as a chair?

Fisher also shows arms on his chair and other component parts that would not be useful in the backpack frame of the claimed invention. The Examiner is selectively picking and choosing the elements needed to make a case of obviousness out of the prior art in a piecemeal or "menu" fashion. This is simply not a proper Section 103 analysis, and the Board must reverse the Section 103 rejections based thereon.

Nothing in dependent claims changes the analysis provided above for Claim 13 regarding Section 103. Accordingly, the claims that depend either directly or indirectly from Claim 13 are patentable for the same reasons set forth above. No further argument is necessary.

For example, Claim 14, which depends directly from Claim 13, also includes all of the limitations thereof, and further recites additional aspects of the invention, namely the fact that the locking assembly comprises a plurality of the said jointed swing arm.

Nothing in Claim 14 changes the analysis provided above for Claims 7, 8 and 13 regarding Section 103. Clearly, the proposed combination of art simply fails to teach or suggest the present invention, which must be viewed as a whole, and not merely in simple segments or portions as defined in dependent claim 14. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 7, 8 and 13. No further argument is necessary.

Likewise, Claim 16, which depends directly from Claim 13, and which includes all of the limitations thereof, and which recites additional aspects of the invention, namely the fact that the cushion is removably attached to the sub-frame.

Nothing in Claim 16 changes the analysis provided above for Claims 7, 8 and 13 regarding Section 103. Clearly, the proposed combination of art simply fails to teach or suggest the present invention, which must be viewed as a whole, and not merely in simple segments or portions as defined in dependent claim 16. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 7, 8 and 13. No further argument is necessary.

Similarly, Claim 23, which depends directly from Claim 7, and thus includes all of the limitations of Claim 7 and Claim 6, but which recites additional aspects of the invention, namely the fact that the locking assembly further comprises a male locking brace and a female brace catch that interconnect to secure the locking assembly.

Nothing in Claim 23 changes the analysis provided above for Claims 7, 8 and 13 regarding Section 103. Clearly, the proposed combination of art simply fails to teach or suggest the present invention, which must be viewed as a whole, and not merely in simple segments or portions as defined in dependent claim 20. Accordingly, this Claim is patentable for the same reasons set forth above as for Claims 7, 8 and 13. No further argument is necessary.

Claim 15 is rejected under 35 U.S.C. §103(a) as being unpatentable over Black in view of Fisher as applied above and further in view of MacLean ('064). The Board should reverse this rejection for the following reasons:

Claim 15 reads as follows:

15. The backpack and chair apparatus of claim 13, wherein the storage pack and frame are removably attached.

Claim 15 depends directly from independent Claim 13 and includes all of the limitations thereof, including the conversion of the unit from backpack frame to chair. None of these references teaches or suggests this clear requirement and accordingly the Examiner should be reversed in this rejection.

The Black reference discloses a backpack and a frame, which converts into a "folding stool" as defined therein. There is no "chair back" as required by the plain meaning of the term "chair" as used in Claim 1, and thus, this reference fails to make obvious the rejected claims. This rejection should be reversed for this simple reason - Black simply teaches a stool, the present inventor teaches and claims a chair - an object having a seat, four legs, and a back - for sitting use by one person. What motivation from the cited art supports the change from Black's stool to the present inventor's chair?

Fisher discloses a folding chair, similar in design to the Appellant's preferred embodiment, but Fisher makes no mention, teaching or suggestion regarding the possible use thereof as a backpack frame. What motivation from the cited art supports the change from Fisher's folding chair to the present inventor's backpack frame that doubles as a chair, and more particularly where the storage pack and the frame are removably attached to one another?

MacLean's invention consists of a folding aluminum lawn chair with a backpack attached to it. See Figure 5 (reproduced below). Unlike the present invention, MacLean does not provide a true "backpack" frame as those having ordinary skill in the art commonly use that term. As those having ordinary skill in this art know, a true backpack "frame" rides against the users' body and assists in load distribution and prevents injury to the wearer of a backpack. In other words, the term "backpack frame" is a term of art that has a well recognized and accepted meaning. In the MacLean patent, the user carries the backpack by the shoulder straps and the "chair frame" rides on the outside - away from the user's body. There is no backpack frame employed in the McLean patent.. It is simply a lawn chair mounted on the outside (away from the pack wearer) of the backpack.

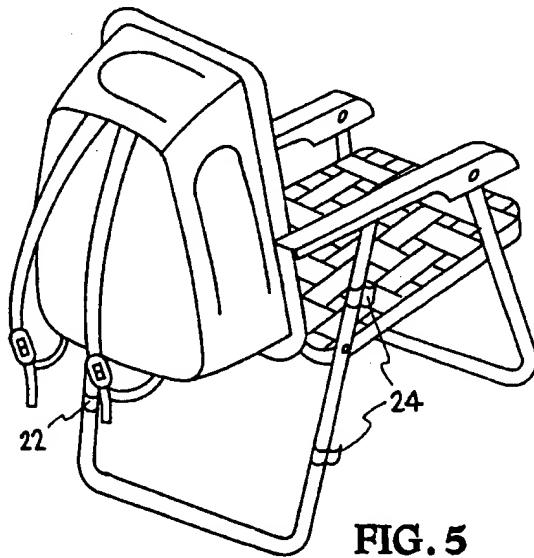


FIG. 5

Clearly, the teachings of Black and MacLean are not compatible, as one employs a traditional backpack frame (convertible to a stool) and the other has simply strapped a lawn chair onto the outer portion of a backpack - using no other frame to carry this load. Adding Fisher makes no sense either - since his invention is simply a folding chair - nothing more.

Claims 17 and 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Black in view of Fisher as applied above and further in view of Gatling. The Board should reverse this rejection for the following reasons:

Claim 17 reads as follows:

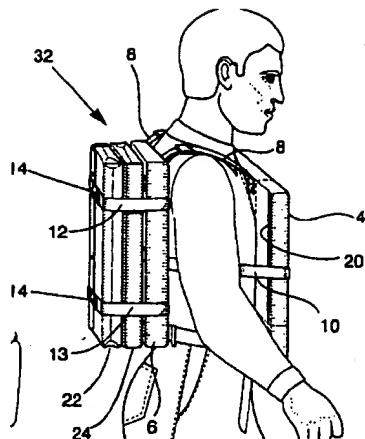
17. The backpack and chair apparatus of claim 16, wherein the cushion further includes a zipper for ease of removal.

Claim 17 depends directly from Claim 16 and indirectly from independent claim 13, and thus incorporates all of the limitations of these claims therein.

The Black reference discloses a backpack and a frame, which converts into a "folding stool" as defined therein. There is no "chair back" as required by the plain meaning of the term "chair" as used in Claim 13, and thus, this reference fails to make obvious the rejected claims. This rejection should be reversed for this simple reason - Black simply teaches a stool, the present inventor teaches and claims a chair - an object having a seat, four legs, and a back - for sitting use by one person. What motivation from the cited art supports the change from Black's stool to the present inventor's chair?

Fisher discloses a folding chair, similar in design to the Appellant's preferred embodiment, but Fisher makes no mention, teaching or suggestion regarding the possible use thereof as a backpack frame. What motivation from the cited art supports the change from Fisher's folding chair to the present inventor's backpack frame that doubles as a chair?

As illustrated, for example in Figure 3, Gatling teaches a backpack with extra cushions mounted thereto to serve as seat cushions in hunting stands.



Nothing in Gatling either teaches or suggests a backpack frame that converts from a pack frame to a chair. Nothing in Gatling either teaches or suggests the rejected claims.

The proposed combination of Black and Gatling, at best, would provide a stool with one or more removable seat cushions. That is not the invention defined in Claim 17 or 22.

The proposed combination of Black, Fisher and Gatling, at best, would provide a backpack stool, with chair arms, with one or more removable seat cushions. That is not the invention defined in Claim 17 or 22.

Nothing in the three cited references teaches or suggests the invention defined in Claim 17. The three references are not combinable in any meaningful manner – given the unique teachings of each. Even if properly combinable, what motivation is provided in the cited art to make the necessary changes thereto to derive the invention defined by Claim 17 – which as a whole includes all of the limitations of Claims 16 and 13.

The Section 103 analysis provided above for Claim 13 regarding Section 103 is fully applicable here for Claim 17. Accordingly, this Claim is patentable for the same reasons set forth above. No further argument is necessary.

Claim 22 reads as follows:

22. The backpack and chair apparatus of Claim 5 wherein the cushion is attached using side release buckles.

Similarly, Claim 22, which depends directly from Claim 5 and thus indirectly from Claim 1 (through Claim 4), includes all of the limitations recited in these claims, and further recites additional aspects of the invention, namely the fact that the cushion is attached using side release buckles.

Nothing in Claim 22 changes the analysis provided above for Claim 17 regarding Section 103. Accordingly, this Claim is patentable for the same reasons set forth above as for Claim 17. No further argument is necessary.

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5. Other Rejections:

No other rejections are pending before the Board.

As required by 37 C.F.R. §1.191(c) issues regarding the "drawing objections" made by the Examiner are being addressed in a separately filed Petition to the Commissioner.

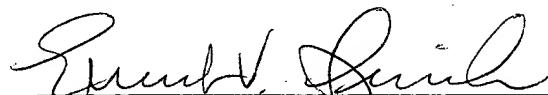
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IX. SUMMARY

An Appendix with the Claims on appeal is attached for the convenience of the Board.

For the reasons set forth herein, it is respectfully requested that the Board reverse the Examiner in this application.

Respectfully submitted,



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APPENDIX
CLAIMS ON APPEAL

1. A backpack and chair apparatus, comprising:
 - a storage pack;
 - a frame attached to said storage pack, providing rigid structure and back support;
 - a plurality of straps attached to said frame enabling a person to carry said frame and said storage pack on one's back in a backpack mode;
 - a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode to a chair mode thereby enabling a person to sit on the apparatus as a chair;
 - a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person.
2. The backpack and chair apparatus of claim 1, wherein the sub-frame is capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair.
3. The backpack and chair apparatus of claim 1, wherein the storage pack and frame are removably attached.
4. The backpack and chair apparatus of claim 1, further comprising a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

5. The backpack and chair apparatus of claim 4, wherein the cushion is removably attached to the sub-frame.

6. A backpack and chair apparatus, comprising:
a storage pack;
a frame attached to said storage pack providing rigid structure and back support;
a plurality of straps attached to said frame enabling a person to carry the said frame and said storage pack on one's back in a backpack mode;
a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair;
a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person;
a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

7. The backpack and chair apparatus of claim 6, wherein said locking assembly comprises a jointed swing arm pivotally attached at one end to the sub-frame and removably attachable at the other end to the frame, such that one segment of the jointed swing arm acts as a chair leg to the sub-frame when in the chair mode.

8. The backpack and chair apparatus of claim 7, wherein conversion of the sub-frame between backpack mode and chair mode, and correspondingly of the locking assembly between the backpack enabling position and the chair

locking position, requires no tools of assembly and is performed with nominal effort.

9. The backpack and chair apparatus of claim 6, wherein the sub-frame, when in chair mode, enables a person to sit on the apparatus as a chair of normal household stability and size.

10. The backpack and chair apparatus of claim 6, wherein said straps are attached to the frame at a position that facilitates a balanced pack load that does not ride uncomfortably low on a user's back when in the backpack mode.

11. The backpack and chair apparatus of claim 6, wherein the storage pack and frame are removably attached.

12. The backpack and chair apparatus of claim 6, wherein the cushion is removably attached to the sub-frame.

13. A backpack and chair apparatus, comprising:
a storage pack;
a frame attached to said storage pack providing rigid structure and back support;

a plurality of straps attached to said frame enabling a person to carry the said frame and said storage pack on one's back in a backpack mode, wherein said straps are attached to the frame at a position that facilitates a balanced pack load that does not ride uncomfortably low on a user's back when in the backpack mode;

a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair of

normal household stability and size;

a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person, wherein said locking assembly comprises a plurality of jointed swing arms pivotally attached at one end to the sub-frame and removably attachable at the other end to the frame, such that one segment of each jointed swing arm acts as a chair leg to the sub-frame when in the chair mode;
wherein conversion of the sub-frame between backpack mode and chair mode, and correspondingly of the locking assembly between the backpack enabling position and the chair locking position, requires no tools of assembly and is performed with nominal effort;

a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

14. The backpack and chair apparatus of claim 13, wherein the locking assembly comprises a plurality of the said jointed swing arm.

15. The backpack and chair apparatus of claim 13, wherein the storage pack and frame are removably attached.

16. The backpack and chair apparatus of claim 13, wherein the cushion is removably attached to the sub-frame.

17. The backpack and chair apparatus of claim 16, wherein the cushion further includes a zipper for ease of removal.

18. The backpack and chair apparatus of Claim 1 further comprising

a strap attached to the sub frame operative as a sway brace when in the chair mode.

19. The backpack and chair apparatus of Claim 1 further comprising a plurality of seat braces operative as stabilizers to prevent the chair from collapsing forward.

20. The backpack and chair apparatus of Claim 3 wherein the pack bag is removably attached with a plurality of turn buckles.

21. The backpack and chair apparatus of Claim 4 wherein the cushion is wedge shaped.

22. The backpack and chair apparatus of Claim 5 wherein the cushion is attached using side release buckles.

23. The backpack and chair apparatus of Claim 7 wherein the locking assembly further comprises a male locking brace and a female brace catch that interconnect to secure the locking assembly.